

██████████,  
Complainant,

v.

**INDIANA MENTORS NETWORK,**  
Respondent.

**NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On October 29, 2010, ██████████ ("Complainant") filed a complaint with the Commission against Indiana Mentors Network ("Respondent") alleging race discrimination in violation of ██████████ the Indiana Civil Rights Law (IC 22-9, et seq.). Complainant is an employee and Respondent is an employer as those terms are defined by the Civil Rights Law. IC 22-9-1-3(h) and (i). Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated due to her race. In order to prevail on such a claim, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate job expectations at the time of her termination; and (4) similarly-situated employees of a different race were treated more favorably.

Complainant is clearly a member of a protected class by virtue of her race and it is also undisputed that she suffered an adverse employment action when she was terminated on September 1, 2010. The only facts in question are whether Complainant was meeting her employer's expectations or, if not, whether employees of a different race were treated more favorably under similar circumstances.

Complainant was alleged to have falsified her time records. However, witness testimony confirmed that Complainant worked on the days in question. Moreover, evidence shows that Complainant's supervisor informed Respondent's representatives that she did in fact authorize Complainant to work extra shifts while another employee was on medical leave to assure coverage on each shift. Respondent failed to adequately investigate the assertion that Complainant had falsified her time records. Furthermore, several employees, including a supervisor, affirmed that Gina Marqua was informed on numerous occasions that Christina Cook was falsifying her arrival and departure time. However, Gina's only response was, "it was just 15 minutes and she probably just made a mistake and I wouldn't want to terminate anyone over 15 minutes." On August 25, 2010, Complainant informed [REDACTED] was stealing time by falsifying her arrival and departure time. However, [REDACTED] told Complainant that was none of her concern and that she needed to be concerned about her own time.

Respondent's policy indicates that it explicitly prohibits the falsification of time records which may be considered grounds for immediate termination. Additional policies reveal that falsification of company documents and the alteration of a company timesheet, time record, or attendance document is a terminable offense. Several witnesses confirm that [REDACTED] has violated the policy on numerous occasions; nevertheless, she was never subjected to a written or verbal warning, suspension, or termination for falsifying her time records. According to witness testimony, Respondent was undeniably notified about [REDACTED] repetitive violation of the company policy; however, Respondent continued to ignore the complaints or administer any disciplinary action.

It is important to note that during the investigation of these claims three (3) witnesses stated that Respondent expressed to them that they would be subjected to consequences including termination or a possible lawsuit if they spoke in a negative manner to the Commission about Respondent because of a confidentiality statement they signed when hired. Such claims, if true, would amount to unlawful retaliation for participating in the investigation of a complaint before the Commission. The Commission shall take all necessary measures to prevent such actions.

Probable cause exists to believe that Respondent has discriminated against Complainant on the basis of her race and interfered with the investigation of this complaint by threatening retaliation against current employees who may have participated in this investigation. A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged in the above-referenced case. IC 22-9-1-18, 910 IAC 1-3-5 The parties may elect to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election, or the Indiana Civil Rights Commission will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

August 8, 2011  
Date

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Joshua S. Brewster, Esq.,  
Deputy Director  
Indiana Civil Rights Commission

**Service list for**  
**Notice of Finding**

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